

Honorable Julius Genachowski, Chairman
Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker
Federal Communications Commission
445 Twelfth Street SW
Washington, DC 20554

Re: CG Docket Nos. 03-123 and 10-51

Dear Chairman Genachowski and Commissioners Copps, McDowell, Clyburn, and Baker,

I recently read the Commission's Public Notice on VRS rates. I am extremely disappointed at the drastic rate cuts suggested by the proposal. We are privileged to live in a country where the rights and opportunities of all people are protected. The Americans with Disabilities Act (ADA) provides four main goals regarding deaf communication service: national access, functionally-equivalent service, improvement in technology, and efficiency. It is therefore extremely disconcerting, that after three years of progress, the FCC would suddenly, on the fly, change their rate methodology, and propose something so detrimental to the above stated ends. The FCC proposal of \$3.89 in tier III is short-sighted and will have devastating effects on the deaf community!

The FCC proposal will severely limit access to VRS. No VRS provider can stay in business with a compensation rate of \$3.89. In order to stay afloat and avoid entering the tier III threshold, VRS providers will cap the number of VRS calls serviced. With reduced services available to deaf consumers, wait-times will rise dramatically, and availability will become limited. VRS companies will stop looking for new customers, again reducing access.

While VRS, in its present form, has been a great boon for the way the deaf communicate, it is not yet anywhere near functionally equivalent to hearing communication. In order to get to functional equivalence, improvement in technology is needed. Yet, by proposing a rate based only upon historical allowable costs (which do not include research and development of videophones, research and development of waived minimum standards, cost of local 10-digit geographic numbers, cost of E911 charges among other things) the FCC is basically showing that they don't care about technological advancement, functional equivalency, or the ADA. How can VRS companies be expected to improve service if there is no hope for a return on their investment? Additionally, going back to a one year rate is also extremely troublesome. How can VRS providers invest in research and development for new products and services when they don't know from one year to the next if their rate of compensation will be cut by 38%, as you are now suggesting?

Yet another facet of the ADA damaged by the current FCC rate proposal is that of efficiency. First, proposing a rate of \$3.89 for tier III, based upon historical allowable costs, essentially punishes companies who work hard to reduce costs. Why would a VRS company strive to streamline operations, when they know if they do too good a job, the FCC will drastically reduce their revenue stream? Companies who do not "cut the fat" so to speak, and maintain the status quo, will be rewarded by being compensated at a higher rate. This is not efficient. Second, as mentioned earlier, VRS companies will be unwilling to enter tier III, as it is unprofitable. To meet the excess consumer demand caused by the provider shrinkage, additional companies will enter the VRS space. This will cause an unwieldy number of VRS providers to all be working in the tier I and tier II levels. Instead of reducing costs to the fund, now all VRS minutes will be compensated at tier I and tier II rates. The same number of minutes will actually cost more money. Again, the results demonstrate a complete lack of efficiency.

The FCC, understandably, shoulders the responsibility to control costs of the universal fund. However, this responsibility should be handled, not by damaging the deaf community with an impossibly low rate, but by reducing fraud. Fraud is not a function of profit margins or rates, but a function of oversight. Fraud can be found in a cross section of all industries, those with both high and low rates of return. The determining factor for hatching a scam is if there is a reasonable chance of not getting caught. If an industry lacks policing, problems with fraud will arise. The VRS industry has experienced a great deal of fraud and it needs to be stopped! Reducing the compensation rate will not reduce fraud, better oversight and regulation will reduce fraud. This is the responsibility of the FCC.

You, the FCC, recently wrote "You may have seen claims that the video relay service (VRS) program is threatened. This is not true. The FCC is committed to ensuring the provision of high quality VRS to all individuals who need this service. The Americans with Disabilities Act (ADA) requires telecommunications access that is functionally equivalent to voice telephone services for people who are deaf, hard of hearing, or have speech disabilities." We stand ready to meet our obligation to preserve and protect the VRS program so that ASL users and hearing people can communicate with each other over distances. This was the goal of Congress in passing the ADA and it continues to be our goal. I am both puzzled and frustrated by the statement's irony. You say the VRS program is not threatened, yet propose a set of rates that do just that. If you are indeed sincere about meeting the goals of the ADA, you must not adopt your proposed rate, but rather adopt a fair and predictable rate using the methodology already established.

Sincerely,
David Hale